

*NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Charlie K. Kim, an individual d/b/a Statewide Enterprises and International Brotherhood of Painters and Allied Trades, Southern California Painters and Allied Trades. Case 21-CA-32262**

December 31, 1998

**SUPPLEMENTAL DECISION AND ORDER**

BY MEMBERS FOX, HURTGEN, AND BRAME

On July 31, 1998, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, ordering Statewide Enterprises, to offer reinstatement to and make whole José Alcanzar and Cesar Mendez for loss of earnings and other benefits resulting from the discrimination against them in violation of the National Labor Relations Act.

A controversy having arisen over the liabilities arising from the Board's Order, on November 4, 1998, the Regional Director for Region 21 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying Charlie K. Kim, an individual d/b/a Statewide Enterprises (the Respondent) that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.<sup>2</sup>

On December 9, 1998, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On December 14, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and with-

out further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent of those amounts to José Alcanzar and Cesar Mendez, plus interest accrued on those amounts to the date of payment.

**FINDINGS OF FACT**

At all material times, Statewide Enterprises has been a sole proprietorship owned and operated by Charlie K. Kim (Kim).

At all material times, Statewide was operated as a painting contractor, with an address of 434 W. Colorado Blvd., #200, Glendale, California and has operated under California Contractors State License Board #360371.

We find that it is appropriate in these circumstances to hold Kim and Statewide, individually and collectively, liable for complying with the Board's Order as enforced in this decision.

**ORDER**

The National Labor Relations Board orders that the Respondent, Charlie K. Kim, an individual d/b/a Statewide Enterprises, Glendale, California, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws:

José Alcanzar	\$6,013.30
Cesar Mendez	<u>7,323.84</u>
TOTAL	\$13,337.14

Dated, Washington, D.C. December 31, 1998

---

Sarah M. Fox	Member
--------------	--------

---

Peter J. Hurtgen,	Member
-------------------	--------

---

J. Robert Brame III,	Member
----------------------	--------

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>1</sup> 325 NLRB No. 227 (not included in Board volumes).

<sup>2</sup> Although it appears that no further reminder letter was sent to the Respondent, this does not warrant denying the General Counsel's Motion for Summary Judgment. See, e.g., *Superior Industries*, 289 NLRB 834, 835 fn. 13 (1988).